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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/701,653	11/30/2000	Fabrice Banctel	Q61879	5626
23373	7590	02/09/2007	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			PATEL, HARESH N	
			ART UNIT	PAPER NUMBER
			2154	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	02/09/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/701,653	BANCTEL ET AL.	
	Examiner	Art Unit	
	Haresh Patel	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 November 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. Claims 1-9 are presented for examination.

Response to Arguments

2. Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Also, the arguments of the office action dated 6/16/07 are still applicable of the prosecution history and incorporated in this office action.

Regarding the applicant's remark regarding the limitations rejected using the arts provided for the official notice, for clarification, the relied upon limitations on the arts provided for the official notice are indeed well known and are not novel because more than one reference cite the well-known limitations. Further, the applicant needs to consider that the cited arts are used for the well-known limitations. The applicant to ignore the teachings of the well-known limitations that are contained in the arts supporting the limitations of the official notice does not support overcoming the rejections. In fact, the applicant failed to challenge whether the cited arts support the official notice limitations i.e., "providing two son objects", as the arts indeed discloses it. Also, one of ordinary skilled in the art at the time of invention very well knows that "providing two son objects" is not novel (as supported by the cited arts).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-9 are software per see that is not tangibly embodied on a computer storage medium such as memory and therefore lacks a practical application because it alone cannot produce its intended outcome.

Please see the independent claim 1, which states, "A computer readable recording medium storing a program for performing a method of implementing a tree of distributed objects, wherein a central directory is adapted to store information on objects in a data structure at a root of the tree, said method comprising assigning to a father object in a process, for each of one or more son objects:"

The specification of this application under prosecution fails to define what is considered as "computer readable recording medium".

The specification of this application under prosecution fails to define "assigning".

The claimed "assigning" do not produce a concrete and tangible result. Assigning alone is not producing a tangible result. It's not until the result of the assigning is used in a disclosed practical application or at least made available for use in a disclosed practical application or provide to a user that it becomes a tangible result, which enables any usefulness of having done the assigning to be realized (please see the claimed subject matter of claims).

It is not provided where the medium is storing the program.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification of this application under examination in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 contains, “store information on objects in a data structure”. However it is not possible to store information on the objects.

Claim 1 contains, “objects is contained in a same process”. However it is not possible to “contain” an object in the process by itself.

Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Step relating objects in a data structure with the “implementing a tree of distributed objects”, step utilizing the tree of distributed objects for the implementing, step relating the process with the program, step relating the son objects with the father object, step relating the tree of distributed objects with the father object, step relating the tree of distributed objects with the son objects, step relating a same process with the program, step relating the tree of distributed objects with the same process, step relating the process of “a father object in a process” with “a same process” of “objects is contained in a same process”,

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step relating a central directory with the data structure are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Without step relating objects in a data structure with the “implementing a tree of distributed objects”, step utilizing the tree of distributed objects for the implementing, step relating the process with the program, step relating the son objects with the father object, step relating the tree of distributed objects with the father object, step relating the tree of distributed objects with the son objects, step relating a same process with the program, step relating the tree of distributed objects with the same process, step relating the process of “a father object in a process” with “a same process” of “objects is contained in a same process”, etc, it is not possible to implement the tree of distributed objects as claimed.

5. Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification of this application under examination in such a way as to reasonably convey to one skilled in the relevant art to use and/or make the invention.

The specification of this application under prosecution fails to define what is considered as “computer readable recording medium”.

The specification of this application under prosecution fails to define “assigning” (other than repeating the claimed language).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. Claims 2, 3, 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, 3, 5 and 6 the phrase "if" renders the claim indefinite because it is unclear whether the limitations related the phrase are part of the claimed invention. See MPEP § 2173.05(d). Note: usage of "if" is no same as "when".

Claims 2 and 3 recite the limitations, "it" or "its". These limitations are indefinite for failing to particularly point out and distinctly claim the subject matter in the claim as per MPEP rules and guidelines, MPEP 706.03(d).

Note: Examiner has made an effort to locate the limitations from the claims that are indefinite for failing to particularly point out and distinctly claim the subject matter. The applicant is requested to fix similar limitations, which the examiner might have overlooked, from the claims.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claim 1-3, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable Menzies et al., 6,317,748, Microsoft (Hereinafter Menzies-Microsoft) in view of “Official Notice”.

9. As per claim 1, Menzies-Microsoft teaches a method of implementing a tree (e.g., col., 15, lines 36 – 64, figure 8) of distributed objects (e.g., col., 6, lines 1 – 18) in different processes (e.g., col., 5, lines 28 – 59), wherein a central directory (e.g., col., 3, lines 27 – 35, col., 4, lines 51 – 64, col., 1, lines 15 – 25, also usage of repository of figure 3, usage of registry and/or directory and/or repository of figure 4, col., 6, lines 31 – 34, col., 7, lines 54 – 59, col., 10, lines 27 - 30) is adapted to store information on objects (e.g., col., 10, lines 9 – 34) in a data structure (e.g., col., 10, lines 27 – 57) at a root of the tree (e.g., col., 10, lines 15 – 35) the method comprising:

assigning to a father object (e.g., col., 15, lines 36 – 54) in a process (e.g., col., 15, lines 36 – 54), for each of son object (e.g. col., 16, lines 4 – 36):

information (e.g., col., 13, lines 48 – 64) corresponding to a physical address (e.g., col., 14, lines 33 – 54) when the son object (at least one) is contained in a same process (e.g., col., 15, lines 36 – 54) and information referring back to said central directory when another (the) son object (at least one) is not contained in the same process (e.g. col., 15, lines 36 – 54, col., 16, lines 4 – 36, col., 4, lines 5 - 48).

However, Menzies-Microsoft does not specifically mention about two son objects.

“Official Notice” is taken that both the concept and advantages of providing two son objects is well known and expected in the art. For example, Whitney et al., 5,842,214 discloses

usage of objects to form a sub-tree of the distributed structure. Volk et al., 5,673,401 discloses usage of hierarchical tree of objects that is distributed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include two son objects with the teachings of Menzies-Microsoft in order to facilitate usage of the two son objects because it would provide information related to the two son objects. The objects would support information for handling the process.

Note: Regarding the applicant's usage of "**wherein**" and/or "**whereby**" and/or "**adapted to**" and/or "**adapted for**" in the claimed subject matter of the claims, the claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure. Please see Minton v. Nat 'l Ass 'n of Securities Dealers, Inc., 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003)), MPEP 2111.

10. As per claim 2, Menzies-Microsoft also teaches wherein if the central directory receives a request (e.g., col., 5, lines 28 – 54) for access to a first object identified by a logical name (e.g., col., 10, lines 14 – 58, col., 15, lines 2 - 24) identifying a logical access path (e.g., col., 5, lines 28 – 54) of said first object from the central directory (e.g., col., 9, lines 26 – 44), the central directory searches its data structure for a logical name received (e.g., col., 10, lines 38 – 67) in order to send the request directly to said first object (e.g., col., 15, lines 8 – 29) and if said logical name is not in the central directory, the central directory searches (e.g., col., 9, lines 26 – 44, col., 10, lines 38 – 67), for a logical name with a longest character string equal to a first part of the

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character string of the logical name received (e.g., col., 9, lines 26 – 44, col., 10, lines 38 – 67), in order to send to said father object the second character string corresponding to a logical name of said father object defining a second logical access path from the central directory (e.g., col., 9, lines 26 – 44, col., 10, lines 38 – 67).

11. As per claim 3, Menzies-Microsoft also teaches wherein said father object which receives said request sends the request to said first object if returns a message to the central directory (e.g., figure 8, col., 17, lines 4 – 35).

12. As per claim 9, Menzies-Microsoft also teaches wherein the method applies to a distributed object environment based on a manager of a DCOM type (e.g., col., 5, line 62 – col., 6, line 29).

13. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Menzies-Microsoft and “Official Notice” in view of Skog et al., Ericsson, 6,385,650 (Hereinafter Skog-Ericsson).

14. As per claim 4, Menzies-Microsoft teaches the claimed limitations rejected as discloses above. However, Menzies-Microsoft does not specifically mention about managing redundancy of processes by selecting one of the processes relating to a requested object.

Skog-Ericsson teaches the well-known concept of managing redundancy of processes by selecting one of the processes relating to a requested object (e.g., figure 6, col., 3, line 40 – col., 4, line 23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Menzies-Microsoft with the teachings of Skog-Ericsson in order to facilitate managing redundancy of processes by selecting one of the processes relating to a requested object because the selected process would enhance handling the requested object. The software would help utilize the selected process in order to support the requested object using the central directory.

15. Claims 5 and 6, are rejected under 35 U.S.C. 103(a) as being unpatentable over Menzies-Microsoft and Official Notice in view of Collins et al., 6,687,761, Invensys Systems (Hereinafter Collins-Invensys) and "Official Notice".

16. As per claims 5 and 6, Menzies-Microsoft teaches the claimed limitations as rejected above. Menzies-Microsoft also teaches wherein the son object (e.g. col., 16, lines 4 – 36) is identified in said request by a logical name (e.g., col., 10, lines 14 – 58, col., 15, lines 2 - 24) defining a first logical access path (e.g., col., 5, lines 28 – 54) of said object from father object (e.g., col., 15, lines 36 – 54) wherein said father object returns said request to the central directory with a first character string of said logical name preceded by a second character string (e.g., col., 10, lines 14 – 58, col., 15, lines 2 - 24) corresponding to a logical name of said father object defining a second logical access path from the central directory (e.g., col., 5, lines 28 – 54, col., 9, lines 26 – 44).

However, Menzies-Microsoft does not specifically mention about if the father object of a the process receives a request relating to the son object directly, said father object returns that request to the directory.

Collins-Invensys teaches the well-known concept of if the father object of the process receives a request relating to the son object directly, said father object returns that request to the directory (e.g., col., 9, lines 18 – 38, col., 17, line 52 – col., 18, line 15, figures 1 and 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Menzies-Microsoft with the teachings of Collins-Invensys in order to facilitate if the father object of the process receives a request relating to the son object directly, said father object returns that request to the directory because the father object would return the request which it does not belong to the son object. The returned request would be sent to the directory, which would handle the returned request.

Menzies-Microsoft and Collins-Invensys do not specifically mention about whether the son object is contained or not in the process of the father object. “Official Notice” is taken that both the concept and advantages of providing whether the son object is contained or not in the process of the father object is well known and expected in the art. For example, Hudis et al., 6,862,736, discloses these limitations, e.g., paragraphs 9 and 24.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include whether the son object is contained or not in the process of the father object with the teachings of Menzies-Microsoft and Collins-Invensys in order to determining whether son object is contained or not in the process of the father object because the determination would inform the software about the inheritance related information. The software would process the information according to the determination.

17. Claims 7 and 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over Menzies-Microsoft and Official Notice in view of Fiszman et al., Nortel Networks, 6,115,646 (Hereinafter Fiszman-Nortel).

18. As per claims 7 and 8, Fiszman-Nortel teaches the claimed limitations rejected under claim 1. However, Menzies-Microsoft does not specifically mention about directory containing information relating to each root object of each process and a manager of a CORBA type.

Fiszman-Nortel teaches the well-known concept of directory containing information relating to each root object of each process and a manager of a CORBA type (e.g., col., 6, lines 11 – 64, figure 17).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Menzies-Microsoft with the teachings of Fiszman-Nortel in order to facilitate directory containing information relating to each root object of each process and a manager of the CORBA type because the directory would help handle each root object. The software would help utilize each process to handle each root object. The manager of the CORBA type would help utilize several different resources by the software.

Conclusion

19. The prior art made of record (forms PTO-892 and applicant provided IDS cited arts) and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haresh Patel whose telephone number is (571) 272-3973. The

examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 10:00 am to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Haresh Patel

February 5, 2007